

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID NAUGHTON,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,
Appellee.

§

§ No. 328, 2015

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§ Court Below—Superior Court

§ of the State of Delaware,

§ in and for New Castle County

§ Cr. ID No. 1306023761A

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Submitted: November 25, 2015

Decided: December 22, 2015

Before VALIHURA, VAUGHN, and SEITZ, Justices.

ORDER

This 22nd day of December 2015, upon consideration of the appellant's Supreme Court Rule 26(c) brief, the State's response, and the record below, it appears to the Court that:

(1) On September 9, 2014, a Superior Court jury found the appellant, David Naughton, guilty of Attempted Noncompliance with Bond Conditions. Naughton was sentenced to five years of Level V incarceration, with credit for forty-one days previously served, suspended for five years of Level IV Home Confinement, to be suspended after six months for eighteen months of Level III probation. This is Naughton's direct appeal.

(2) On appeal, Naughton’s counsel (“Counsel”) filed a brief and a motion to withdraw under Supreme Court Rule 26(c) (“Rule 26(c”). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel informed Naughton of the provisions of Rule 26(c) and provided Naughton with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Naughton of his right to identify any points he wished this Court to consider on appeal. Naughton has not raised any issues for this Court’s consideration. The State has responded to the Rule 26(c) brief and has moved to affirm the Superior Court’s judgment.

(4) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must: (i) be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (ii) conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.¹

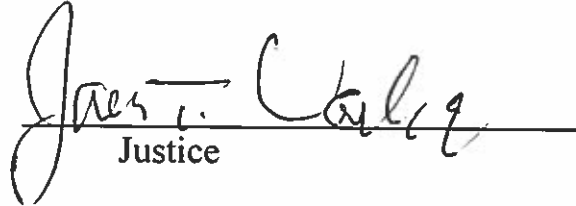
(5) This Court has reviewed the record carefully and has concluded that the Naughton’s appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Naughton’s counsel has made a

¹ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *Leacock v. State*, 690 A.2d 926, 927-28 (Del. 1996).

conscientious effort to examine the record and the law and has properly determined that Naughton could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:


Justice